

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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CLERKS OFFICE  
2005 JAN 25 P 3:24

GUSTAVO LEAL GERRA,  
Plaintiff,

v.

CLEANCO MAINTENANCE CORP.,  
J.L.D. CLEANING SERVICES, INC.,  
REOBERT LEONE, and DEBORAH  
LEONE,  
Defendants.

C.A. No. 04-12685-PBS

**DEFENDANTS' ANSWER TO PLAINTIFF'S AMENDED COMPLAINT AND  
JURY TRIAL DEMAND**

NOW COME the herein-named Defendants, Cleanco Maintenance Corp., J.L.D. Cleaning Services, Inc., Robert Leone, and Deborah Leone, through their legal counsel, LeClair & LeClair, P.C., and ANSWER Plaintiff's Complaint as follows:

1. Denied.
2. Denied.
3. Denied.
4. Denied.
5. Paragraph 5 states the intention of the Plaintiff, which can neither be admitted nor denied by the Defendants, and therefore does not warrant a response.
6. Denied.
7. Denied.
8. Denied.

9. Denied.
10. The Defendants have insufficient information to either admit or deny the allegations of Paragraph 10.
11. Admitted.
12. Admitted.
13. Admitted.
14. Admitted.
15. Admitted.
16. Admitted.
17. Denied.
18. Denied.
19. Admitted.
20. Denied.
21. The Defendants lack sufficient information to either admit or deny the allegations of Paragraph 21, and call upon the Plaintiff to prove the same at the time of trial.
22. The Defendants lack sufficient information to either admit or deny the allegations of Paragraph 22, and call upon the Plaintiff to prove the same at the time of trial.
23. The Defendants lack sufficient information to either admit or deny the allegations of Paragraph 23, and call upon the Plaintiff to prove the same at the time of trial.
24. The Defendants lack sufficient information to either admit or deny the allegations of Paragraph 24, and call upon the Plaintiff to prove the same at the time of trial.
25. Denied.
26. Denied.

27. Denied.
28. Denied.
29. Denied.
30. Denied.
31. No response required.
32. Denied.
33. Denied.
34. Denied.
35. Denied.
36. No response required.
37. Denied.
38. Denied.
39. Denied.
40. Denied.
41. No response required.
42. The Defendants have insufficient information to either admit or deny the allegation in Paragraph 42.
43. Denied.
44. Denied.
45. Denied.
46. Denied.

## **AFFIRMATIVE DEFENSES**

### **FIRST AFFIRMATIVE DEFENSE**

By way of affirmative defense, the Defendants state that with respect to each and every Count of the Plaintiff's Complaint, the Plaintiff has failed to state a claim for which relief may be granted.

### **SECOND AFFIRMATIVE DEFENSE**

By way of affirmative defense, the Defendants state that the Plaintiff's claims are barred under the doctrine of unclean hands.

### **THIRD AFFIRMATIVE DEFENSE**

By way of affirmative defense, the Defendants state that the Plaintiff's claims to relief are barred under the doctrine of estoppel.

### **FOURTH AFFIRMATIVE DEFENSE**

By way of affirmative defense, the Defendants state that the Plaintiff cannot recover for the reason that he failed to give notice of damages and/or claim allegedly suffered by him to Defendants as required by the statutes of the Commonwealth and by the Federal Employment Laws.

### **FIFTH AFFIRMATIVE DEFENSE**

By way of affirmative defense, the Defendants state that the Plaintiff, his actions and/or the conduct of his agents, subrogees and servants has waived any and all rights he may have had against the Defendants, and therefore cannot recover in this action.

### **SIXTH AFFIRMATIVE DEFENSE**

By way of affirmative defense, the Defendants state that the Plaintiff is not entitled to recover because he failed to mitigate his damages.

### **SEVENTH AFFIRMATIVE DEFENSE**

By way of affirmative defense, the Defendants state that if the Plaintiff has any claim against the Defendants, a third party or co-Defendant is liable to the Plaintiff for all or part of said claim.

### **EIGHTH AFFIRMATIVE DEFENSE**

By way of affirmative defense, the Defendants state that the Plaintiff is not entitled to recover on the ground that the claim set forth in the complaint is barred by the statute of limitations.

**NINTH AFFIRMATIVE DEFENSE**

By way of affirmative defense, the Defendant, RPM Motorsports, Inc., states that there is lack of privity and lack of consideration between the Plaintiff and the Defendant as alleged in the Plaintiff's complaint.

WHEREFORE, the Defendants, Cleanco Maintenance Corp., J.L.D. Cleaning Services, Inc., Robert Leone, and Deborah Leone respectfully request that the Plaintiff's Complaint be dismissed and the Defendants, Cleanco Maintenance Corp., J.L.D. Cleaning Services, Inc., Robert Leone, and Deborah Leone, awarded legal fees and costs of defense any other relief the Court deems just and reasonable.

**JURY TRIAL DEMAND**

THE DEFENDANTS, CLEANCO MAINTENANCE CORP., J.L.D. CLEANING SERVICES, INC., ROBERT LEONE, AND DEBORAH LEONE REQUEST A JURY TRIAL ON ALL COUNTS OF THE PLAINTIFF'S COMPLAINT.

Respectfully submitted,  
Cleanco Maintenance Corp., J.L.D.  
Cleaning Services, Inc., Robert Leone,  
And Deborah Leone,  
By their Attorney,

  
\_\_\_\_\_  
L. Richard LeClair, III, Esq.  
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(781) 893-5655  
BBO#: 561650

**CERTIFICATE OF SERVICE**

I hereby certify that on this day a true copy of the within document was served upon the attorney of record for each party by mail/hand.

Dated: 1/24/05 